United Nations A/73/309

General Assembly

Distr.: General
6 August 2018

Original: English

Seventy-third session
Items 74 (a) and 127 of the provisional agenda*

Promotion and protection of human rights: implementation of human rights instruments

United Nations reform: measures and proposals

Status of the human rights treaty body system

Report of the Secretary-General

Summary

In its resolution 68/268, the General Assembly requested the Secretary-General to submit to the Assembly, on a biennial basis, a comprehensive report on the status of the human rights treaty body system. The present report is the second report submitted pursuant to that request.

The report, together with 24 statistical annexes provided on the OHCHR website (www.ohchr.org/EN/HRBodies/HRTD/Pages/2ndBiennialReportbySG.aspx), provides information on the progress achieved in implementing resolution 68/268. The resolution identifies criteria by which to assess the future needs of treaty bodies in terms of meeting time and the corresponding level of human and financial resource requirements, based on the number of State party reports and individual communications received and the workload targets specified in the resolution. The report provides a detailed consideration of the progress made on the elements identified in the resolution and areas for improvement that are essential for the effective functioning of the human rights treaty body system. The report identifies the challenges remaining, such as the increasing number of activities undertaken by the treaty bodies, which has not been accompanied by adequate resources. The report also emphasizes that in the lead-up to the review by the General Assembly of the human rights treaty body system in 2020, it is essential that discussions be held in an open, transparent and inclusive manner to ensure that the contribution of the treaty body system to meeting the needs of Member States is fully appreciated and to find adequate solutions to existing challenges.

* A/73/150.

18-12944 (E) 140818

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I. Introduction

1. The present report is the second to be submitted pursuant to General Assembly resolution 68/268, in which the Assembly requested the Secretary-General to submit to it, on a biennial basis, a comprehensive report on the status of the human rights treaty body system and the progress achieved in realizing greater efficiency and effectiveness in the work of the human rights treaty bodies.

2. In the same resolution, the Assembly also decided to consider the state of the human rights treaty body system no later than six years from the date of adoption of the resolution, namely by 9 April 2020, and to review the effectiveness of the measures taken.

3. The human rights treaty body system comprises nine core treaties and eight Optional Protocols, which lay down legal obligations for the States that become parties to them. In addition, the Optional Protocol to the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment establishes the Subcommittee on Prevention of Torture, with a specific mandate on torture prevention.

4. The human rights treaty bodies consist of 10 Committees of independent experts ranging in number from 10 to 25 members, whose mandate is derived from the 9 core treaties and the Optional Protocol to the Convention against Torture. The treaty bodies perform a number of functions aimed at reviewing how the treaties and protocols are being implemented by the States parties. All treaty bodies, with the exception of the Subcommittee on Prevention of Torture, are mandated to receive and consider reports by States parties detailing how they are applying the treaty provisions. Eight of the treaty bodies,[1] under the respective Optional Protocols or specific provisions, may receive and consider complaints or communications from individuals alleging that their rights have been violated, provided that the State in question has accepted that procedure.[2] The Subcommittee on Prevention of Torture has a mandate to visit all places where persons are or may be deprived of their liberty. The treaty bodies carry out a number of other functions in accordance with the relevant treaty, such as urgent actions, inquiries, requests for further information relevant to the implementation of the treaties (also known as follow-up procedures), inter-State complaints, general comments and early warning procedures.

5. In total, there are 172 treaty body experts serving as independent members on the 10 Committees to which they are elected by the State parties to the particular treaty or protocol. The experts work on a pro bono basis and serve as members in their personal capacity.

6. The Office of the United Nations High Commissioner for Human Rights (OHCHR), in particular the Human Rights Treaties Branch, provides substantive legal, procedural, administrative and logistical support to the treaty bodies. The United Nations Office at Geneva provides conference services support by managing the conference rooms and providing for simultaneous interpretation, including sign language and captioning, editing, translation and publishing of documents. The United Nations Information Service prepares and disseminates background and round-up press releases, summaries of public meetings in English and French and, provided that funding is available, webcast services (live recording and archiving).

[1] Article 77 of the International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families has not yet entered into force.

[2] The competence of a Committee to consider individual communications is recognized either through a State declaration pertaining to a specific provision of the treaty or through ratification of the relevant Optional Protocol.

7. Once a State has acceded to or ratified a human rights treaty, it is required that an initial report be submitted within one or two years of the entry into force of the treaty and, thereafter, in general, periodic reports at intervals specified in the relevant treaty or by the treaty body. States parties are also encouraged to submit and update a common core document providing general and factual information on the implementation of all the treaties to which the State is party. During their sessions in Geneva and in the presence of the State party delegation, the treaty bodies review how the State party implements its legal obligations under the relevant treaty, through either the standard or the simplified reporting procedure. Under the standard reporting procedure, the review of a State party is carried out on the basis of its report, as well as other available information. The State party submits written replies to a list of issues prepared by the Committee to inform the dialogue with the State party delegation. In turn, the simplified reporting procedure consists of the adoption by the Committee of a "list of issues prior to reporting". The responses of the State party to the list of issues prior to reporting form the basis of the State party report. There is no additional list of issues in such cases. The outcome of the dialogue is the concluding observations, which include recommendations for the State party reviewed. Under both reporting procedures, the treaty bodies rely on the support of OHCHR staff, who conduct research and analysis on the specific human rights situation of the State party in relation to the relevant treaty obligations and provide assistance with the drafting of a list of issues or the list of issues prior to reporting and in the drafting of concluding observations.

8. During their sessions, Committees also examine communications received from individuals alleging that their rights under the relevant treaty have been violated. OHCHR staff undertake preparatory work by reviewing incoming correspondence, carrying out research on the jurisprudence of the Committees on the admissibility and merits, conducting a legal analysis of the submissions, drafting recommendations for the experts, providing additional information as requested, finalizing the text of the decisions or views and assisting with analysing and assessing supplementary information on their implementation.

9. The experts of the Subcommittee on Prevention of Torture visit all places where persons are or may be deprived of their liberty. This is done with the support of OHCHR staff, who carry out legal analysis and prepare and participate in the visit to ensure the necessary follow-up and draft reports for the consideration of the Subcommittee.

10. Several challenges facing the treaty body system have been identified over the past decades, including non-compliance of States with their reporting obligations; backlogs facing some of the treaty bodies; the increasing time lag for treaty bodies with communication procedures between the registration of and a final decision on a case; voluminous and costly treaty body documentation; the capacity of States to prepare national reports; the coherence of the system; and inadequate resources given the expansion of the system's activities. In 2012, the United Nations High Commissioner for Human Rights put forward a comprehensive set of proposals to tackle those challenges (A/66/860, sect. 2.3). An open-ended intergovernmental process was launched in 2012, and resolution 68/268 was adopted in April 2014.

11. The current assessment builds on the first report of the Secretary-General on the status of the human rights treaty body system (A/71/118) and the comprehensive and detailed assessment of the costs of the treaty body system, which was provided as background information to the intergovernmental process (A/68/606).

12. The reference period used in this report is 1 January 2016 to 31 December 2017, with relevant data in the annexes covering a broader period, from 2014 to 2017, showing the progression since the previous report.

Observations of States parties

13. OHCHR solicited the views of States parties on the implementation of the resolution, particularly those provisions specifically addressed to States. All responses received, including those from other stakeholders, are available on the Office's website.[3]

14. The States that responded reiterated their continued support to the treaty body system and OHCHR and expressed their commitment to continue to implement the resolution. Some States expressed the view that the simplified reporting procedure was beneficial and should be offered by all Committees. Others preferred the standard reporting procedure and highlighted as a challenge the fact that the simplified reporting procedure was not proposed under the same modalities by all. Other issues raised included the need to respect the principle of multilingualism and to have reports translated on time, and the need to make better use of the meetings with States parties.

II. Progress achieved in implementing General Assembly resolution 68/268

15. In its resolution 68/268, the General Assembly agreed upon a set of measures to streamline the work of the treaty bodies and allocate their resources more effectively, based on an objective assessment of their respective workloads (on the basis of the average number of State party reports and individual communications received in the previous years) and according to established workload targets (the review of 2.5 State party reports per week (5 reports submitted under the Optional Protocols to the Convention on the Rights of the Child) and the review of 23 communications per week). Furthermore, using the same formula, the workload and related resource requirements could be reassessed and adjusted as needed in the future, on the basis of a biennial status update. An OHCHR capacity-building programme was also established pursuant to the resolution to assist States in meeting their reporting obligations. Importantly, the changes introduced pursuant to the resolution were effectively budget neutral, as the costs arising from the new initiatives were matched by corresponding savings from the streamlining measures, such as strict word limits for State party reports and the reduction in the number of working languages to three for the treaty bodies.

16. An analysis is provided below of the criteria used by the General Assembly, as described in paragraphs 26 and 27 of the resolution, to determine the annual allocation of meeting time for 9 of the 10 treaty bodies. The Subcommittee on Prevention of Torture and the meeting of the Chairs were not included in the aforementioned calculation, as they have different mandates.

Ratifications

17. Since the issuance of the previous report (A/71/118), the overall number of ratifications of the 18 human rights treaties and optional protocols, including declarations recognizing the competence of a Committee to consider individual communications, increased from a total of 2,300 in 2015 to 2,386 in 2017, representing an increase of 86, or 3.7 per cent (annex I). That is comparable to the 5 per cent increase observed over the period from 2013 to 2015. The universal ratification of all of the treaties and optional protocols, including declarations, would entail 4,925 ratifications.

[3] http://www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx.

18. The greatest percentage increase in the number of ratifications concerned the Optional Protocol to the Convention on the Rights of the Child on a communications procedure, which had 22 ratifications at the end of 2015 and 37 at the end of 2017, representing a 68.1 per cent increase.

Reporting compliance

19. As at 31 December 2017, 34 of the 197 States parties were fully compliant with their reporting obligations and did not have overdue reports. This represents 17 per cent of all States parties (annex II).

20. The remaining 163 States parties had not complied with one or more of their reporting obligations for either initial or periodic reports. As at 31 December 2017, 578 reports were overdue. A per treaty analysis shows significant variations between Committees in the number of reports overdue.

State party reports

21. Of the 10 treaty bodies, 9 review State party reports. For the purpose of calculating meeting time requirements, it is noted that the average number of State party reports received annually by each treaty body decreased slightly, from 132 a year from 2012 to 2015 to 128.8 a year from 2014 to 2017, representing 3 fewer reports (annex III).

22. The number of reports pending review (also referred to as the backlog) decreased from 258 in December 2015 to 230 in December 2017, representing an 11 per cent decrease (annex IV). The Committee on the Rights of Persons with Disabilities had the largest backlog, with 47 reports pending review, or 20 per cent of the total backlog.

23. In terms of workload, most treaty bodies that review State party reports have met the workload targets established in the resolution (annex V). On average, Committees reviewed 166.2 State party reports a year from 2015 to 2017 over a period of 66.3 weeks, thereby meeting the target of 2.5 reports per week.[4]

Individual communications

24. Of the 10 treaty bodies, 8 may receive individual communications. The yearly average number of individual communications registered in 2016 and 2017 increased by approximately 2 communications, from an average of 297.5 registered in 2014 and 2015 to 300 for 2016 and 2017 (annex VI). The number is particularly high for the Human Rights Committee, which registered a yearly average of 189 communications for 2016 and 2017, or 63 per cent of the total yearly average of all communications registered for all eight treaty bodies. The Committee on the Rights of the Child had the greatest increase in the annual average number of communications registered, from 1 at the end of 2015 to 29 at the end of 2017.

25. The number of communications pending review increased from 769 in 2015 to 977 in 2017, representing a 28 per cent increase (annex VII). The Human Rights Committee had the largest number of communications pending review, with 693 communications out of 977, representing 71 per cent of the total. The Committee on the Rights of the Child recorded the largest increase in the number of communications pending review, from 1 at the end of 2015 to 35 at the end of 2017.

[4] The average number of State party reports reviewed each week for nine treaties is 2.6 (23.5/9); for the Optional Protocols to the Convention on the Rights of the Child on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography, the figure is 4.3 (8.6/2).

26. In terms of meeting workload targets for individual communications, the eight treaty bodies that review individual communications adopted final decisions on a yearly average of 197 communications from 2015 to 2017 over a period of 6.3 weeks. This represents 31 communications per week, thereby exceeding the target of 23 by more than a third. This includes communications that were discontinued en bloc (annex VIII).

Visits of the Subcommittee on Prevention of Torture

27. The Subcommittee on Prevention of Torture undertook 7 visits in 2014, 8 visits in 2015 and 10 visits in both 2016 and 2017, in accordance with its mandate (annex IX).

28. Since its establishment in 2007, the Subcommittee met for three one-week sessions per year, including in 2017.

Capacity-building

29. Between 2015 and 2017, the capacity-building programme enhanced the skills and knowledge of more than 350 State officials from 135 countries (annex X). Those officials have become trained trainers on treaty reporting and part of subregional networks of State officials. Furthermore, technical assistance was provided in some 70 countries on specific human rights treaties and corresponding reporting obligations. This assistance resulted in new ratifications; the submission of updated common core documents and outstanding State party reports; improved constructive dialogues; and an increased interest in a number of countries towards establishing a national mechanism for reporting and follow-up, which is meant to ensure sustainable engagement by States with all human rights mechanisms and continuous reporting and implementation of their recommendations. Most importantly, a number of countries with previous long delays in reporting are now re-engaging with the treaty bodies.

30. To support such engagement, OHCHR in 2016 published a practical guide entitled "National Mechanisms for Reporting and Follow-up: A Practical Guide to Effective State Engagement with International Human Rights Mechanisms"; a training guide on reporting to the United Nations human rights treaty bodies; and an e-learning tool for State officials and other stakeholders on treaty reporting. Other treaty-specific guides are under preparation.

Accessibility

31. At present, no resources have been allocated for the provision of accessible services to the treaty bodies other than the Committee on the Rights of Persons with Disabilities. The Committee has met since 2017 in a recently renovated and fully accessible room at the Palais des Nations, in Geneva, which ensures the provision and quality of accessibility services, including sign language interpretation, simultaneous remote captioning and Braille printing as required (annex XI).

32. In December 2017, the United Nations Office at Geneva launched a special project to produce a limited series of core documents relating to the Convention on the Rights of Persons with Disabilities in plain language and easy-to-read formats to increase the ability of the audience, in particular persons with intellectual disabilities, to understand them at first glance. There are currently no regular budget allocations to produce plain language and easy-to-read versions of treaty body documents.

33. OHCHR and the United Nations Office at Geneva continued to provide reasonable accommodation to experts with disabilities on an ad hoc basis. Sustainable

solutions are required to provide reasonable accommodation and accessibility services to persons with disabilities in respect of all Committees and meetings.

Webcasting and use of information and communications technologies

34. In the resolution, the General Assembly decided in principle to webcast, as soon as feasible, the public meetings of the treaty bodies. It requested the Department of Public Information to report on the feasibility of providing, in all of the official languages used in the respective Committees, live webcasts and video archives. The feasibility study was included in annex XX of the information supplementing the previous report (A/71/118),[5] but to date no resources have been allocated for webcasting.

35. The General Assembly also requested that States parties be provided an opportunity to participate in the consideration of their reports to the treaty bodies by videoconference in order to facilitate wider participation in the dialogue. Information on the remote participation of State delegations by videoconference is included in annex XII. The United Nations Office at Geneva ensures smooth operational support for both webcasts and videoconferences, although there are no dedicated resources for those services. Both webcasting and remote participation by videoconference are important accessibility initiatives that provide for greater visibility and outreach of the treaty body system.

36. From September 2016 to June 2017, more than 200 State party reviews and other public meetings of treaty bodies were webcast live and archived on the United Nations Television platform, accessible worldwide. The introduction of webcasting was made possible thanks to the contribution by the European Union of extrabudgetary resources as a pilot project, scheduled to conclude on 30 June 2018. Given the high demand for webcasting services, additional extrabudgetary funding is being urgently sought to enable its continuation (annex XIII). In line with the provisions of resolution 68/268, webcasting should be funded through regular budget resources.

III. Projected requirements for the period 2020–2021 and remaining challenges

37. In its resolution 68/268, the General Assembly approved a number of measures to enable the treaty body system to function more efficiently and effectively. The capacity of the system to process State party reports and individual submissions was assessed in order to determine weekly workload targets and, on the basis of that assessment and the projections of anticipated submissions, the necessary meeting time was allocated. The Assembly also decided that the amount of meeting time allocated would be reviewed biennially on the basis of actual reporting during the previous four years and the allocation of meeting time amended as necessary, in the context of the biennial programme budget.

38. The resources required for one week of meeting time differ depending on the size of the membership for the travel of the experts, the different documentation needs and the types of activities carried out by the treaty bodies. A week of meeting time to review State party reports requires 15 weeks of Professional staff support, whereas a week for the review of individual communications requires 70 weeks of Professional staff time, in addition to 4 weeks of General Service staff support for both. Individual

[5] See www.ohchr.org/EN/HRBodies/HRTD/Pages/FirstBiennialReportbySG.aspx.

communications require much more time for processing and review than do State party reports.[6]

Meeting time needs for 2020–2021

39. The meeting time needs of the treaty body system for 2020–2021 are assessed on the basis of the criteria set out in paragraphs 26 and 27 of the resolution (annexes XIV–XVI). The trend identified in the previous report, namely, the fluctuation in the number of State party reports received from year to year and from one treaty body to another, is confirmed, as is the sharp increase in the number of individual communications registered between 2012 and 2015 (see A/71/118, paras. 18–21). Although the submission of State party reports did not increase, a significantly greater number of individual communications are received, which can be expected to grow considerably further as the communication procedures of the Convention on the Rights of the Child and the Convention on the Rights of Persons with Disabilities, which have entered into force relatively recently, become more widely known and used.

40. As a result, the annual meeting time requirement for the treaty bodies is assessed at 91 weeks in 2020–2021,[7] comprising 57 weeks for the review of State party reports, 16 weeks for the review of individual communications and 18 weeks for other mandated activities (annex XVII).

41. The 18-week period for other mandated activities refers to the two additional weeks of meeting time allocated in the resolution for each of the nine treaty bodies and is included in the 91-week annual total. The resources provided for each of those 18 weeks are equivalent to those provided for a week of meetings to review State party reports. Evidence since 2015 indicates that those resources are insufficient to carry out the work and to cover the associated costs that arise in the areas of urgent action, inquiry and follow-up to the implementation of recommendations, decisions and views.

42. With respect to all of the aforementioned procedures, adjustments in the correspondence between the amount of time allocated for meetings and the amount of staff and financial resources required to carry out the work are very much needed, as is evidenced in paragraphs 57 to 71 below.

Remaining challenges

43. While the number of reports expected to be received in a given year is unpredictable and is up to the States, an overall increase is anticipated in the number of State party reports submitted over the medium and long term as a result of the continued increase in the number of ratifications and the increased support provided to States parties through the focused capacity-building programme (see A/71/118, para. 18). The number of individual communications is also expected to increase as a result of greater outreach and increased knowledge of the procedures. An increase in ratifications would also mean that the Subcommittee on Prevention of Torture would conduct more visits.

44. To facilitate the preparation of the State party reports and interactive dialogue, the General Assembly encouraged the use of the simplified reporting procedure. This

[6] The availability of a staff member supporting the treaty bodies is 40 weeks per year, or 200 working days, taking into account official holidays, leave entitlements, coordination requirements, administrative duties and mandatory training.

[7] The meeting time assessed for 2015–2017 totals 92.6 weeks (66.3 State party reports plus 8.3 individual communications plus 18 other mandated activities) and for 2018–2019, 93.2 weeks (59.2 State party reports plus 16 individual communications plus 18 other mandated activities).

may reduce the reporting workload for States parties and increase the focus and quality of their reports, as their response to the list of issues prior to reporting constitutes the submission of the State party report.

45. At present, there is not enough empirical evidence across treaty bodies to determine the impact of the use of the simplified reporting procedure and whether it is sustainable in terms of resources. The two treaty bodies that have used it the most, the Human Rights Committee and the Committee against Torture, are currently assessing its impact and workload implications; however, the results were not available at the time of writing.

46. The increase in the number of reports and communications submitted will also have an impact on the overall number of reports and communications pending review. The backlog of State party reports decreased slightly between 2015 and 2017 because of the additional meeting time granted in 2015 and the sustained efforts of the Committees and the Secretariat to meet the workload target of 2.5 State party reviews conducted per week. The backlog of individual communications increased, however, despite the sustained efforts of the Committees and the Secretariat, and the workload target was exceeded: 31 rather than the 23 communications planned were considered per week. The increase in the backlog of individual communications was due to the significant increase in the number of communications received and registered for consideration by the treaty bodies and the fact that the increase could not be absorbed within the existing resources owing to the already high workload.

Subcommittee on Prevention of Torture

47. The Optional Protocol to the Convention against Torture established a system of regular visits by the Subcommittee on Prevention of Torture to places where persons are or may be deprived of their liberty in order to prevent torture and ill-treatment.

48. The Subcommittee on Prevention of Torture recently reduced the number of visits from 10 per year to 7 or 8, as it can no longer absorb within existing staffing levels the additional 2 or 3 annual visits. Given the current number of ratifications, it will take more than 10 years for the Subcommittee to visit all States parties.

49. Each visit undertaken by four to six members of the Subcommittee is supported by two or three Professional staff members, who carry out legal analysis, prepare and participate in the mission and ensure its follow-up, including by drafting reports to States and national preventive mechanisms. A total of 20 weeks of Professional staff time is needed per visit, as well as six weeks of preparatory logistical and administrative support by a General Service staff member.

50. As the meeting time formula set out in resolution 68/268 does not cover the work of the Subcommittee on Prevention of Torture, a correlation needs to be established between the increase in the volume of activities of the Subcommittee and staff needed to support those activities.

Working methods and harmonization

51. As treaties entered into force at different moments in time, the Committees started working independently, developing their own working methods and practices according to their needs and the specificities of their respective treaties. This led to the current situation, in which each Committee practises different working method.

52. Over the past decades, with the active support of the Secretariat, the treaty bodies have gone to great lengths to discuss harmonization or alignment of the different working methods and practices. Most Committees have adopted the Addis Ababa guidelines on the independence and impartiality of members of the human

rights treaty bodies (A/67/222 and A/67/222/Corr.1, annex I) and the San José guidelines against intimidation or reprisals (HRI/MC/2015/6), or have established practices to deal with such issues. Similarly, the significant efforts to harmonize the approach to inquiries merit mention. While the harmonization and alignment of working methods has been achieved to a certain extent, in the areas identified by the General Assembly in its resolution 68/268, important variations among the Committees remain. Efforts to align working methods are ongoing. Such efforts have focused especially on the simplified reporting procedure (annex XVIII), on the constructive dialogue (annex XIX), on concluding observations (annex XX) and on general comments (annex XXI). Much has already been achieved to improve the accessibility of the system and bring the predictability necessary for States parties and stakeholders to engage with it.

53. Since 1988, the Chairs of the human rights treaty bodies have met on an annual basis for one week to share information and better coordinate their work, including by considering ways to enhance the effectiveness of the treaty body system as a whole. Since their twentieth meeting, in 2008, the Chairs have included harmonization of working methods in their agenda and have agreed that the working methods require improvement (see A/63/280, annex, para. 21).

54. At their thirtieth meeting, from 29 May to 1 June 2018, the Chairs discussed documents prepared by OHCHR (HRI/MC/2018/3 and HRI/MC/2018/4), identifying progress achieved in aligning the working methods and practices of the treaty bodies in a number of areas. The Chairs also discussed areas for continued work to further align their working methods (see A/73/140).

55. Several challenges remain, however. First among them is the lack of a common understanding among treaty body members on the role and authority of their respective Chairs. Second is the limited time and resources that Chairs have to meet and discuss key issues, including between sessions. Third is the continual rotation of individuals chairing the treaty bodies, which makes it difficult to reach and maintain consensus.

56. Concerted efforts are required to establish the meeting of Chairs as a proactive and solution-oriented platform aimed at finding common approaches, thus ensuring a more effective treaty body system. It is important that the Committees have an opportunity to discuss and compare working methods during their sessions, in advance of the annual meeting of Chairs, to facilitate collective decisions to delegate authority to their respective Chairs to discuss and endorse working methods and practices at the annual meeting.[8]

Two additional weeks for other mandated activities

57. In addition to reviewing State party reports and individual communications, treaty bodies perform a range of other functions aimed at reviewing how States parties implement their legal obligations. They include, for some Committees, carrying out urgent actions, conducting country inquiries and/or visits and making requests for further information relevant to the implementation of the Conventions (also known as follow-up procedures).

58. Evidence indicates that the staffing resources corresponding to the 18 weeks allotted for the performance of other mandated activities (2 additional weeks for each

[8] This procedure is in place with respect to decisions previously discussed and agreed to within each of the Committees. Such measures are to be implemented by all treaty bodies, unless a Committee subsequently dissociates itself from it (see A/70/302, para. 88, and the outcome document of the Dublin II meeting on strengthening the United Nations human rights treaty body system (see http://www.ohchr.org/EN/HRBodies/HRTD/Pages/Documents.aspx, para. 26).

of the 9 treaty bodies) are far from sufficient to meet the actual workload generated by those activities. The staff support corresponding to 1 week of meeting time for other activities is calculated on the basis of the workload for supporting 1 week of State party reports, namely, 15 workweeks for a Professional staff member and 4 workweeks for a General Service staff member. In 2016–2017, the intensity of the additional activities added 20 per cent more work for the staff.[9] This should be recognized and addressed.

59. Other activities of treaty bodies that are necessary for their functioning have not been quantified in terms of workload and need to be taken into consideration. Such activities include the preparation and adoption of the agenda and programme of work, electing officers and discussing and adopting rules of procedure, working methods and practices and recommendations emanating from the meeting of the Chairs.

Urgent actions

60. Urgent actions[10] are a procedure of the Committee on Enforced Disappearances aimed at urgently searching for and locating a person who has disappeared. The number of urgent actions registered almost doubled, from 274 at the end of 2015 to 445 at the end of 2017, of which 405 were under consideration as at 31 December 2017 (annex XXII). This represents an increase of over 50 per cent. In order to cope with this situation, immediate measures are necessary, as was also highlighted in the previous report (A/71/118, para. 46).

61. Staff supporting the Committee on urgent actions register new requests, prepare requests for information, analyse the State party's reply and the author's comments, prepare requests for interim measures, draft recommendations for the Committee and draft correspondence to the State party with the Committee's recommendations.

62. On average, a Professional staff member spends two working days on an urgent action and a General Service staff member one day. Considering the yearly average of 402 urgent actions registered in 2016–2017, a total of 161 weeks of work of a Professional staff member and 80.4 weeks of work of a General Service staff member would be required.

Inquiries

63. Six treaty bodies may initiate inquiries if they receive reliable information containing well-founded indications of serious, grave or systematic violations of the provisions of the treaties in a State party. Those inquiries consist of reviews and in-depth analysis of information and may include a country visit (annex XXIII). While funding was provided for documentation and for the travel of members of some Committees and staff to carry out inquiry visits, no provision was made for the provision of interpretation during the visits.[11]

64. Staff supporting inquiries analyse, review and process the information received and prepare correspondence to and engage with the concerned State party and information sources. When the treaty body decides to request a visit, the staff prepare

[9] Professional staff support: 161 weeks (urgent actions) plus 43 weeks (inquiries) plus 70 weeks (follow-up) plus 48 weeks (general comments), for a total of 322 weeks; in addition to 18 weeks of meeting time multiplied by 15 weeks of support for a total of 270 weeks. General Service staff support: 80.4 weeks (urgent actions) plus 3.4 weeks (inquiries) plus 7 weeks (follow-up), for a total of 90.8 weeks; in addition to 18 weeks of meeting time multiplied by 4 weeks for a total of 72 weeks.

[10] See the International Convention for the Protection of All Persons from Enforced Disappearance, art. 30.

[11] Currently no resources are provided in connection with inquiries in respect of the Convention on the Rights of the Child or the Covenant on Economic, Social and Cultural Rights.

and participate in the visit and ensure the necessary follow-up, including by drafting the report.

65. On average, one Professional staff member needs 15 working days for an inquiry without a visit or report, 30 days for an inquiry without a visit but with a report or 55 days for an inquiry with both a visit and a report. General Service staff need on average one, two or five days, respectively, to support the treaty bodies on inquiries.

66. Considering the yearly average in 2016–2017 of 6 new requests for inquiries and/or visits, 0.5 inquiries concluded per year without a visit but with a report, and 2 inquiries carried out with a visit and a report, a total of 43 working weeks of Professional staff support and 3.4 weeks of a General Service staff member would be required.

Requests for further information relevant to the implementation of the Conventions (also known as follow-up procedures)

67. Most treaty bodies have developed processes to consider the steps taken by States parties to implement recommendations as part of the reporting procedure [12] and decisions and views under the individual communications procedures, also referred to as follow-up to recommendations and views. In 2017, the treaty body system produced 15 such reports relating to concluding observations and 10 reports relating to decisions or views.

68. Staff communicate with States parties and, in the case of views, with the authors of communications; receive information from States parties, civil society organizations and authors of communications; summarize that information for a preliminary assessment; prepare the draft report or procedure; review the draft report with the rapporteur; and send further communications to States parties and, in the case of views, to authors of communications informing them of the relevant decisions of the treaty body.

69. On average, one such procedure or report relating to concluding observations requires two weeks of Professional and one day of General Service staff time. In the case of views, five weeks of Professional staff time and two days of General Service staff time are required. Using the workload averages of 2016–2017 to determine the future yearly needs, namely 15 reports relating to concluding observations and 8 reports relating to views, the related staffing needs represent 70 working weeks of Professional staff support and 7 weeks of General Service support.

Elaboration of general comments

70. All Committees prepare and publish general comments or general recommendations covering a wide range of issues, including the interpretation of specific substantive provisions of their respective treaties, guidance on the general obligations of States party to a treaty and wider cross-cutting issues in relation to the specific treaties.

71. As at 31 December 2017, five Committees had eight general comments under preparation (annex XXI). On average, each general comment requires six working

[12] International Convention on the Elimination of All Forms of Racial Discrimination , article 9.1; International Covenant on Economic, Social and Cultural Rights, article 16.1; International Covenant on Civil and Political Rights, article 40.1; Convention on the Elimination of All Forms of Discrimination against Women, article 18 (b); Convention on the Rights of the Child, article 44.4; Convention against Torture, article 19.1; Optional Protocol to the Convention against Torture, article 13.4; International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families, article 73.1. (b); Convention on the Rights of Persons with Disabilities, article 35. 2; Committee on Enforced Disappearances, article 29.4.

weeks of a Professional staff member. Accordingly, a total of 48 weeks of Professional staff support would be required.

Follow-up to the previous report

72. The first report of the Secretary-General contained an assessment of the implementation of resolution 68/268 from January 2015 to June 2016, a relatively short period of time. Treaty bodies' meeting time requirements for reviewing State party reports and individual communications for the biennium 2018–2019 were identified on the basis of the workload reported. An addition of 0.6 weeks to the 92.6 weeks of meeting time of treaty bodies from 2015 to 2017 was recommended, for a total of 93.2 weeks, distributed according to the reported workload. Specifically, the meeting time for dealing with communications was to increase from 8.3 weeks in 2017 to 16 weeks per year in 2018 and 2019. The meeting time for reviewing State party reports was to decrease from 66.3 weeks in 2017 to 59.2 weeks in 2018 and 2019. Those changes had implications for the support provided by Professional and General Service staff to the treaty bodies, as well as for documentation needs and requirements for the travel of treaty body experts. While the revised meeting time allocation was approved by the General Assembly, less than half of the corresponding human resources requested were approved.

73. The main implication was that OHCHR had insufficient staff capacity to prepare the necessary documentation and provide substantive, legal, administrative and logistical support and advice prior to, during and after the sessions of the Committees.[13] The level of staff support provided to some of the more labour-intensive procedures of the Committees had to be reduced to what was achievable with the current staffing levels.

74. Given insufficient staff resources, the workload targets that correspond to the reallocated meeting time are not likely to be met for 2018–2019. If the increase in the number of ratifications and reporting compliance remain stable, the backlog of State party reports will increase rather than decrease. The backlog of individual communications will continue to increase, bringing treaty bodies back to a situation as difficult as that which existed before the adoption of resolution 68/268, in 2014, a key objective of which was precisely to eliminate such backlogs.

75. Similarly, the additional week of meeting time that the General Assembly approved for the Subcommittee on the Prevention of Torture will not be used because of insufficient staff capacity to support its visits. Therefore, the number of visits of the Subcommittee planned for 2018–2019 will be reduced to seven or eight per year.

76. The funding of webcasts of the public meetings of treaty bodies was not included in the resources requested.

IV. Further action to strengthen and enhance the functioning of the human rights treaty body system

77. Resolution 68/268 contains a range of important measures addressed to all stakeholders. However, those measures, even if fully implemented, were not meant to ensure the long-term viability of the treaty body system. Unless further steps are taken, the system will continue to grow more complex for both States and rights holders. The experience of implementing the resolution has made even more apparent

[13] The Office strongly encouraged treaty bodies to agree on a common aligned procedure for follow-up to concluding observations, decisions and views that would be fully streamlined and would alleviate the workload, HRI/MC/2018/4, para. 5, and A/73/140, annex II.

the unsustainability of increased activity of the treaty bodies without the provision of adequate resources. Such growth is bound to gradually erode the accessibility and impact of this invaluable normative framework.

78. It is therefore essential to seize the opportunity provided by the 2020 review by engaging in a timely and conclusive reflection on ways to ensure a strong and effective treaty body system in the longer term.

79. Over the years, States, treaty body members, non-governmental organizations, experts and other stakeholders have built a rich repository of analysis of the strengths and challenges of the system and developed concrete ideas for addressing the latter.[14] Other recent examples include proposals put forward in connection with the Academic Platform on Treaty Body Review 2020, coordinated by the Geneva Academy of International Humanitarian Law and Human Rights, as well as various submissions presented by treaty body members, national human rights institutions and non-governmental organizations. Now is the time to harvest those ideas and follow up on those that have the potential to sharpen, streamline and rationalize the treaty body system in a manner that brings concrete benefits to rights holders.

80. The Chairs of the human rights treaty bodies have stressed that the treaty body system should ultimately: (a) strengthen the protection of rights holders; (b) preserve the integrity of the treaty body system and the independence of both the committees and their experts; (c) enhance the implementation of treaty obligations and the related recommendations of treaty bodies; (d) balance the need for greater alignment of procedures and working methods with the specific mandates of each treaty body; (e) develop more predictable and coordinated calendars for examining State party reports; and (f) strengthen synergies within the treaty body system and with other human rights mechanisms.

81. In exploring various options, States, treaty body members and other stakeholders concerned may wish to consider the five parameters set out below.

Preserve the existing normative framework of the human rights treaties

82. There is a wide consensus behind the view that treaty body strengthening should be pursued within the existing normative framework and that proposals requiring treaty amendments are neither realistic nor advisable. A number of pragmatic ideas generated to date show that the treaty body system can be significantly rationalized in a lasting manner without the respective treaties being amended.

Prevent unsustainable growth of the treaty body system

83. By its very nature, the treaty body system will continue to grow with new ratifications, resulting in an increasing number of State party reports and communications requiring careful consideration and analysis. In order to prevent the demise of the treaty body system under the weight of unsustainable growth, the 2020 review needs to encourage improved, streamlined and coherent procedures and working methods for State party reviews, individual communications and other work, along with the provision of adequate resources.

Enhance compliance with reporting obligations

84. Reporting to treaty bodies is not an end in itself but rather a means for States to examine their own progress and challenges in meeting their human rights obligations,

[14] Since 1988, four major initiatives have been taken by the United Nations to enhance the effectiveness of the treaty body system: http://www.ohchr.org/EN/HRBodies/HRTD/Pages/TBStrengthening.aspx.

engage with national stakeholders in human rights dialogues and benefit from the assessment and recommendations of independent experts. Those goals are currently not being achieved in non-reporting States. In strengthening the system, therefore, ways to facilitate reviews of all States parties should be considered.

Advance coherence and consistency of recommendations and jurisprudence

85. Any sustainable strengthening effort should also advance coherence (see A/66/860, para. 2.3.5), consistency and complementarity of the recommendations and the jurisprudence of treaty bodies. This would strengthen the overall effectiveness of the system, including in areas where human rights treaties share similar provisions, such as those on non-discrimination and gender equality. It is important to create a common space for treaty bodies to reflect on jurisprudential developments in order to ensure that consistency.

Focus on membership

86. The uniqueness of the treaty body system lies in the wealth and depth of knowledge and experience that treaty body experts contribute both individually and collectively. The highest level of recognized competence and expertise in the field of human rights, together with high moral standing and independence, are required of treaty body members. The General Assembly, in its resolution 68/268, encouraged States parties to consider adopting national policies or processes with respect to the nomination of experts and to give due consideration to equitable geographic distribution, the representation of the different forms of civilization and the principal legal systems, balanced gender representation and the participation of experts with disabilities.

87. Very little progress has been achieved in establishing national mechanisms to open the selection of candidates to a broader competitive process and improve the gender composition of treaty bodies. The overall percentage of 44 per cent female to 56 per cent male members remains unchanged (annex XXIV) from the level reported in annex XVIII to the previous report. The membership of the Committee on the Rights of the Child achieved parity, and the Subcommittee on Prevention of Torture had 12 female members out of 25 members. The Committee on the Elimination of Discrimination against Women had one male member, and the Committee on the Rights of Persons with Disabilities had one female member (A/72/284, table 5).

88. The proposals made by the then High Commissioner in her 2012 report, in particular those concerning the nomination and selection of experts (A/66/860), remain valid and valuable in connection with the 2020 review.

V. Conclusions and recommendations

89. **The treaty body system constitutes a precious tool for the protection of human rights that is the foundation of all other human rights mechanisms, and it is relied upon as being authoritative by diverse actors worldwide. Resolution 68/268 produced transitional improvements, obtained in a cost-neutral manner through savings from within the treaty body system. The resolution was not designed to address all the challenges of the treaty body system, nor did it suggest a lasting solution to the issues the system faces. To address those challenges in a structured and sustainable manner, it is imperative to enhance the 2020 discussions in an open, transparent and inclusive manner.**

90. **The implementation of the resolution has been a mixed picture of progress and persistent challenges. Most of the challenges relating to working methods can be addressed by improving the modalities, and much has already been done**

in that area. It is also necessary to strengthen the role of the Chairs and to schedule the time necessary for Committees to discuss the agenda of the meeting of the Chairs and its follow-up, in the light of the discussions and findings of the Chairs. Stronger recognition of the Secretariat's essential role in supporting the work of the treaty bodies and the allocation of sufficient resources to enable them to function at the commensurate capacity are also required.

91. The resolution was an innovative attempt to rationalize the meeting time allocation and the corresponding human and financial resources. While necessary adjustments have been made in the time allocated to Committees, this has not been matched by the allocation of staff resources sufficient to prepare and participate in meetings and visits. Staffing resources sufficient for the proper completion of such work, as well as the work of the Subcommittee on Prevention of Torture, are urgently needed to ensure that the mandate of the resolution is met. Resources are also needed to ensure the webcasting of the public meetings of the treaty bodies and enhance the accessibility of those meetings for persons with disabilities.

92. Staffing and other resources are essential to ensure that treaty bodies are able to respond to an increase in workload resulting from other mandated activities, such as communications, urgent actions and inquiries.

93. The ability of the United Nations to continue to support Member States in meeting their reporting obligations and other requirements arising from the treaty body system is crucial in ensuring the promotion and enjoyment of human rights at the national level, as well as in fostering links between human rights and the agendas on sustaining peace and sustainable development, including by fostering linkages between the outputs of the treaty bodies and the Sustainable Development Goals.